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Chelan Co, WA

## AGREEMENT FOR CONTRIBUTION IN LIEU OF TAXES

2005A5-4  
1/10/2005  
BOOK LL

This Agreement For Contribution In Lieu of Taxes ("**CONTRIBUTION AGREEMENT**") is made and entered into this 7th day of JANUARY, 2005, by and between the Wapato Heritage, LLC, a Washington Limited Liability Company ("**WAPATO HERITAGE**"), and Chelan County, a Washington Municipal Corporation, acting on behalf of itself and the following local taxing districts, situated within Chelan County ("**COUNTY**"):

See, the Distribution Schedule which is attached hereto and incorporated herein by references as if fully set forth designated Exhibit "A."

### WITNESSETH

WHEREAS, the parties acknowledge that **WAPATO HERITAGE** currently holds and is entitled to the development rights as the lessee of the property commonly known as "MA-8" situated at Manson, Chelan County, Washington, under and by virtue of that written Business Lease Agreement dated February 2, 1984, by and between the Bureau of Indian Affairs ("**BIA**"), by and on behalf of the beneficial owners, as the **LESSOR**, and William Wapato Evans, Jr. ("**EVANS**"), as the **LESSEE**, which lease expires on December 31, 2034 ("**BUSINESS LEASE**"), which real property is described as follows (**MA-8**):

A portion of MA-8, Wapato John, described as being the unlotted portion of fractional Section 1, Township 27 N., Range 21 E.W.M., lying East of the North and South one-quarter line, EXCEPT a parcel containing .75 acres along the East boundary of Fractional Section 1 within Allotment MA-9, and Lots 9 and 10 and the West half of the Southeast quarter of Section 36, Township 28 N., Range 21 E.W.M., Chelan County, Washington; AND,

WHEREAS, the parties acknowledge that **WAPATO HERITAGE** has made and received oral consent to a written proposal to the **BIA** to develop the **MA-8** property in a two (2) phase residential/sports resort community ("**DEVELOPMENT**"); AND,

WHEREAS, the parties acknowledge that **WAPATO HERITAGE** has procured contractual commitments for the financing and construction of the **DEVELOPMENT** from the Selland Development Management, LLC, a Washington limited liability company ("**SELLAND**") conditioned upon **WAPATO HERITAGE** obtaining a new lease from the **BIA** for the **MA-8** property with a term of ninety-nine (99) years; AND,

WHEREAS, the parties acknowledge that the Project Agreements for the **DEVELOPMENT** provides that the lots to be constructed shall be subject to covenants,



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conditions and restrictions which will require each lot owner to be a member in a Homeowners Association (initially governed by **SELLAND** as the **DEVELOPMENT** manager until sale of 90% percent of the lots) with bylaws and covenants, which shall require the Association to charge and collect a rental fee from each lot owner to be remitted to **WAPATO HERITAGE** ("**RENTAL FEE**"); AND,

WHEREAS, the parties acknowledge that an amendment to 25 U.S.C. Section 415 to obtain a ninety-nine (99) year lease exemption for the **MA-8** property is necessary to accomplish the **DEVELOPMENT**; AND,

WHEREAS, it appears that under the applicable laws of the United States and the State of Washington, and the terms of the lease of the **MA-8** property, the lease and all of the improvements to be constructed thereon are all exempt from real and personal property ad velorem taxes and from the Washington leasehold excise tax; AND,

WHEREAS, the parties acknowledge that **WAPATO HERITAGE** currently holds and is entitled to rental payments under that written Sublease dated August 6, 1993, by and between William Evans, Jr., and Chief Evans, Inc., a Washington corporation, Lessor, and the Colville Tribal Enterprise Corporation, a Colville Tribal corporation ("**CTEC**"), with reference to that portion of the **MA-8** property commonly known as the "Mill Bay Casino" ("**CASINO**"); AND,

WHEREAS, the parties acknowledge they made and entered into an Agreement for Voluntary Contribution In Lieu Of Taxes, dated August 8, 2000, with reference to the **CTEC** Sublease for the **CASINO** ("**2000 AGREEMENT**"); AND,

WHEREAS, **WAPATO HERITAGE** recognizes that the construction and operation of the present and proposed facilities on **MA-8** will have a substantial impact upon the resources and services of Chelan County and each of the local taxing districts described herein and the increased demands produced by such **DEVELOPMENT** and accordingly, **WAPATO HERITAGE** undertakes to obligate itself and its successors in interest to make the contributions herein provided in lieu of taxes.

NOW, THEREFORE, in consideration of the utilization of the funds herein provided to maintain the resources and services of the County at the best level possible in light of the increased demands thereon resulting from the **DEVELOPMENT** at **MA-8**, it is hereby agreed as follows:

1. Amount of Payments

**WAPATO HERITAGE** agrees to pay to the **COUNTY** annually an amount equal to 12 percent (12%) of the sum of the following:



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(a) The annual **RENTAL FEE** (as defined on attached Schedule B) collected by **WAPATO HERITAGE** from the Homeowners Association for the **DEVELOPMENT** as paid by each of the residential lot owners as sublessees in the **DEVELOPMENT**; AND,

(b) An amount equal to the amount required to amortize over a period of forty (40) years the cost of all site improvements constructed by **WAPATO HERITAGE** for the **DEVELOPMENT** excluding any improvements (residents, fixtures, outbuildings, and the like) which are constructed by any lot purchaser as a sublessee on the **MA-8**.

## 2. Duration of Payments

The payments herein provided for shall continue over the term of the lease described above including any extensions or renewals thereof. That portion of the payment measured by the amortization of construction cost shall continue throughout the entire term of payment notwithstanding the expiration of the period of amortization of any given site improvement as constructed by **WAPATO HERITAGE**.

## 3. Time of Payments

Subject to the terms of this **CONTRIBUTION AGREEMENT**, the payments herein provided for shall be made annually by **WAPATO HERITAGE** to the **COUNTY** as follows: (a) As to that portion which is measured by the amortization of construction costs, one-half (½) thereof shall be paid not later than April 30 and one-half (½) shall be paid not later than October 31 of each year; and (b) As to that portion which is measured by the **RENTAL FEE** paid by lot owners, one-half (½) thereof shall be paid not later than May 31 and one-half (½) shall be paid not later than November 30 of each year. Delinquent payments shall bear interest at the rate of six percent (6%) per annum from the due date until paid. This agreement shall be effective according to the terms of Paragraph Ten (10) of this **CONTRIBUTION AGREEMENT**. During the term of this **CONTRIBUTION AGREEMENT**, **WAPATO HERITAGE** agrees to provide the **COUNTY** with the following concerning the **MA-8** property **DEVELOPMENT** on an annual basis:

(a) schedule of rents received; (b) depreciation schedule; (c) its calculation of how the in lieu of tax was calculated for purposes of its payment to the **COUNTY**.

Site improvements substantially completed and ready for occupancy by April 30 of each year shall be included in the schedule of amortization of construction costs commencing the following calendar year for the purpose of computing payments provided for herein. The Chelan County Assessor shall have the right on a reasonable-advance-notice basis to enter upon the premises for the purpose of verifying construction progress. **WAPATO HERITAGE** shall furnish the Chelan County Assessor with copies of all construction contracts, final settlement statements, and other documents necessary to verify construction costs.



4. Collection and Remittance of Payments

**DEVELOPMENT** lot owners shall be subject to covenants, conditions and restrictions which will require lot owners to be members in a Homeowners Association (initially governed by **SELLAND** as the **DEVELOPMENT** manager until sale of 90% of the lots) with self-governing and assessment rights over certain common areas and facilities. The Homeowners Association bylaws and covenants shall require the Association to charge and collect from each lot owner in the **DEVELOPMENT** a **RENTAL FEE** (equivalent to real property tax) and the **COUNTY**'s portion thereof as described in this **CONTRIBUTION AGREEMENT** shall be remitted to the **COUNTY** on behalf of **WAPATO HERITAGE** by the Homeowners Association. That portion of the **RENTAL FEE** collected by the Homeowners Association on behalf of the **COUNTY** pursuant to the terms of this **CONTRIBUTION AGREEMENT** shall be placed in escrow by the Homeowners Association with instructions for the disbursement of the amount payable to the **COUNTY** under Paragraph One (1)(a) of this **CONTRIBUTION AGREEMENT** to the **COUNTY** pursuant to the terms of this Agreement ("**ESCROW**"). **WAPATO HERITAGE** hereby grants to the **COUNTY** a security interest in this **ESCROW** fund to secure the payment by **WAPATO HERITAGE** to the **COUNTY** of the sums described at Paragraph One (1) of this **CONTRIBUTION AGREEMENT**.

5. Lien

The parties agree that the portion of the payments provided for at Paragraph One (1) of this **CONTRIBUTION AGREEMENT** which are attributable to the amortization of construction costs shall be a lien on each Sublease for each lot purchased in the **DEVELOPMENT**. **WAPATO HERITAGE** agrees to provide an appropriate provision in each and every Sublease subjecting the same to the lien as described at Paragraph Five (5) of this **CONTRIBUTION AGREEMENT** and shall execute such instruments as may be appropriate to give notice of such lien by recording the same in the office of the Chelan County Auditor.

6. Distribution

The payments provided for herein shall be distributed by the County Treasurer to the local taxing entities in the proportions identified on the "Distribution Schedule" which is attached hereto and by this reference is made a party hereof as Exhibit "A" initially and until said Distribution Schedule may be modified and thereafter in accordance with any such modification. Any modification of said Distribution Schedule shall be subject to the approval of **WAPATO HERITAGE**.

7. Agency

Chelan County, functioning through its duly elected and appointed officers, is acting as agent and attorney-in-fact for all of the taxing districts who are parties hereto presently



or as modified by additions and deletions hereafter made.

8. Customer Charges

It is understood and agreed that the payments provided for herein are in the nature of in lieu of taxes and any normal customer service charges shall be in addition thereto.

9. Termination

It is understood that if, at any time, the improvements upon MA-8 become subject to ad valorem property taxes or the lease of MA-8 becomes subject to the state leasehold excise tax, the payments provided for herein shall thereupon terminate.

10. Contingency

Subject to the provisions of Paragraph Eleven (11) herein, the parties agree that the obligation of **WAPATO HERITAGE** to make the payments in lieu of taxes as described in this **CONTRIBUTION AGREEMENT** is expressly contingent and conditioned upon: (a) **WAPATO HERITAGE** obtaining a ninety-nine (99) year lease exemption under 25 U.S.C. Section 415 from Congress for the MA-8 property; (b) **WAPATO HERITAGE** obtaining a new lease from the **BIA** on terms which in the sole discretion of **WAPATO HERITAGE** are proper, necessary and appropriate to construct the **DEVELOPMENT**.

11. Casino

The parties hereby agree to rescind and render as a nullity the **2000 AGREEMENT** relating to the **CASINO** as of the effective date of this **CONTRIBUTION AGREEMENT**; Provided, However, **WAPATO HERITAGE** agrees to pay the delinquent sum of \$66,000.00 to the **COUNTY** within thirty (30) days of receipt by **WAPATO HERITAGE** from the **BIA** of its share of William Evans' Individual Indian Money Account(s) by virtue of a final Order in his pending federal probate proceedings. In substitution for the **2000 AGREEMENT**, **WAPATO HERITAGE** agrees to pay annually on December 31 to the **COUNTY** four percent (4%) of the rental paid by **CTEC** for the **CASINO** under the Sublease to **WAPATO HERITAGE** commencing with the 2005 calendar year. The parties agree that the payment described at Paragraph Eleven (11) herein shall be distributed according to the provisions of Paragraph Six (6) of this **CONTRIBUTION AGREEMENT**. The **COUNTY** agrees that **WAPATO HERITAGE** will have no obligation to make the payment called for under Paragraph Eleven (11) of this **CONTRIBUTION AGREEMENT** if **CTEC** ceases operation of the **CASINO** for any reason prior to expiration of the Sublease.

**DATED** the day and year first above written.



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WAPATO HERITAGE, LLC

By: *Jeff D. Webb*  
JEFFREY D. WEBB, Operating Manager

CHELAN COUNTY

By: *Ron Walter*  
RON WALTER,  
Commissioner District No. 1

By: *Keith W. Goehner*  
KEITH GOEHNER,  
Commissioner District No. 2

By: *Buell Hawkins*  
BUELL HAWKINS,  
Commissioner District No. 3

*1/10/2005 - Signed*



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**MINUTES OF SPECIAL MEETING  
OF  
WAPATO HERITAGE, LLC**

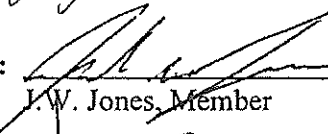
The undersigned, being all of the equity members of the Wapato Heritage, LLC, a Washington limited liability company, by execution hereof, approve, accept and ratify the following action taken on behalf of the limited liability company at a special meeting of its members, Operating Manager Jeffrey D. Webb ("WEBB") and its General Counsel in Chelan, Washington, on January 7, 2005:

1. Each of the members by execution hereof approve, accept and ratify the written Agreement for Contribution In Lieu of Taxes, by and between the limited liability company and Chelan County, in connection with the contemplated Phase I and II development of the MA-8 property ("AGREEMENT").
2. Each of the members by execution hereof expressly authorize Jeffrey D. Webb as the limited liability company's Operating Manager to make, execute and deliver the AGREEMENT to the Chelan County Board of Commissioners and to do all acts which may be necessary to accomplish its terms, covenants and conditions.

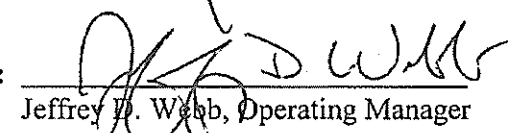
DATED this 7<sup>th</sup> day of January, 2005.

**WAPATO HERITAGE, LLC**

By:   
Jamie Jones, Member

By:   
J.W. Jones, Member

By:   
Kenny Evans, Member

By:   
Jeffrey D. Webb, Operating Manager



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## EXHIBIT A

### DISTRIBUTION SCHEDULE

Chelan County — Current Expense Fund:	<u>20 %</u>
Chelan County — Road District No. 1:	<u>5 %</u>
Manson School District No. 19:	<u>24 %</u>
Manson Park and Recreation District:	<u>10 %</u>
Chelan County Public Hospital District No. 2:	<u>7 %</u>
Chelan County Fire Protection District No. 5:	<u>24 %</u>
Chelan School District No. 129:	<u>10 %</u>





CHELAN COUNTY COMMISSION

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## SCHEDULE B

The parties agree that the term "**RENTAL FEE**" shall for purposes of this **CONTRIBUTION AGREEMENT** mean:

1. For an undeveloped lot, two percent (2%) of the lot sales price, plus permitted improvement costs placed thereon; AND,
2. For any re-sold lot, two percent (2%) of the total sales price, plus subsequent permitted improvement costs placed thereon.



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**Return Address:**  
Chelan County Commissioners  
350 Orondo St  
Wenatchee, WA 98801

**Document Title(s) (or transactions contained therein):**

1. Agreement for Contribution in Lieu of Taxes
- 2.
- 3.
- 4.

**Reference Number(s) of Documents assigned or released:**  
(on page of document(s))

**Grantor(s) (last name first, then first name and initial(s))**

1. Wapato Heritage LLC
  - 2.
  - 3.
  - 4.
- ☐ Additional names on page of document.

**Grantee(s) (last name first, then first name and initial(s))**

1. Chelan County
  - 2.
  - 3.
  - 4.
- ☐ Additional names on page of document.

**Legal Description (abbreviated : i.e. lot, block, plat or section township and range)**

A portion of MA-8, Wapato John, described as being the unlotted portion of fractional Sec 1, TWP 27 N, Range 21 EWM, see document.

☐ Additional legal is on page of document

**Assessor's Property Tax Parcel/Account Number:**

☐ Additional parcel numbers on page of document

**Washington State County Auditor/Recorder's indexing form (cover sheet)**

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**EMERGENCY NONSTANDARD REQUEST**

I am requesting an emergency nonstandard recording for an additional fee of \$50.00 as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE